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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**WASHINGTON, D.C.**

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**Amtrak Petition For**  
**Determination Of PRIIA**  
**Section 209 Cost Methodology**  
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**STB Finance Docket No. 35571**

**ENTERED**  
**Office of Proceedings**  
**JAN 23 2012**  
**Part of**  
**Public Record**

**REPLY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION**

Pursuant to the Decisions of the Surface Transportation Board (Board) dated December 15, 2011 and December 29, 2011, the United States Department of Transportation (Department) hereby submits its Reply to the Petition and Supplements submitted by the National Railroad Passenger Corporation (Amtrak). The Department is pleased to have the opportunity to share its views on this matter.

In passing the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), Congress reauthorized Amtrak and enacted various measures to strengthen the nation's passenger rail network through improved service, operations, and facilities. PRIIA provided a framework for engaging Amtrak, the Department, states, and various other stakeholders in this endeavor. The provision of PRIIA relevant to Amtrak's Petition, section 209, states:

**Sec. 209. State-supported routes**

- (a) In general.—Within 2 years after the date of enactment of this Act, the Amtrak Board of Directors, in consultation with the Secretary [of Transportation], the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, shall develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak

associated with trains operated on each of the routes described in section 24102(5)(B) and (D) and section 24702 that—

- (1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and
- (2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

...

(c) Review.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

49 U.S.C. § 24101 note.

As described in the Petition and Supplements, Amtrak has sought to discharge its duties under section 209 by engaging the Department and interested states in a thorough process to develop a workable cost methodology that satisfies the aims of the statute and addresses, as much as possible, the concerns that the states have raised. Amtrak's submissions provide a detailed history of these collaborative efforts over the past two years, including the following:

- the identification of nineteen states covered by the provisions of section 209 (Covered States);
- the establishment of a State Working Group (SWG), consisting of five of the Covered States, to engage in discussions with Amtrak about the development of the cost methodology;

- numerous presentations, meetings, telephone conferences, and other discussions held throughout the country with the SWG and Covered States;
- briefings to Congress on the status of Amtrak's efforts; and
- the release of a draft of the proposed methodology to the Covered States for their review and comment before the methodology was finalized.

Furthermore, as Amtrak has noted, representatives from the Department, particularly the Federal Railroad Administration (FRA), were consulted in the course of this process, and participated in some of the discussions with Amtrak and the Covered States about the development of an appropriate cost methodology.<sup>1</sup>

It is the Department's understanding that eighteen of the nineteen Covered States have communicated their assent to the methodology that Amtrak has proposed. One state, Indiana, has withheld its approval. Consequently, Amtrak has filed its Petition under PRIIA section 209 for the Board to resolve the matter and determine an appropriate methodology.

The Department is pleased that Amtrak and the Covered States have worked together to resolve so many of their concerns and to fulfill PRIIA's goals. The passenger rail network is an important component of the nation's system of transportation and its economic development, and the Department continues its efforts to foster safe, efficient, and reliable passenger rail service. Furthermore, the Department remains willing to collaborate with Amtrak, states, and other stakeholders to maintain and improve the passenger rail network.

It is the Department's view that the speedy resolution of Amtrak's Petition would serve the goals of PRIIA and would benefit the passenger rail network. The Department would

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<sup>1</sup> The Secretary of Transportation is an *ex officio* member of Amtrak's Board of Directors. 49 U.S.C. § 24302(a)(1). However, this Reply is filed on behalf of the Department pursuant to the role that Congress contemplated for the Department in PRIIA.

welcome the opportunity to hear of Indiana's remaining concerns about the proposed methodology that the other Covered States have approved. Furthermore, the Department may offer additional views at a later stage of this proceeding if its interests warrant.

January 23, 2012

Respectfully submitted,

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Robert S. Rivkin

General Counsel  
United States Department of Transportation

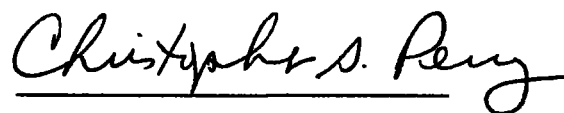
**Certificate of Service**

I hereby certify that on this 23rd day of January, 2012, I caused the foregoing document to be served by first class mail, postage prepaid, upon the following:

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A handwritten signature in black ink, reading "Christopher S. Perry". The signature is written in a cursive style and is positioned above a horizontal line.

Christopher S. Perry